

CHAPTER 3.20
SEX OFFENDER REGISTRATION

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CHAPTER 3.20

SEX OFFENDER REGISTRATION CODE

§3.2001 Creation of Registries.

- A. Sex Offender Registry. There is hereby established a sex offender registry, the Keweenaw Bay Indian Community Sex Offender Registry, which the Tribal Police shall maintain and operate pursuant to the provisions of this code, as amended.
- B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, the Keweenaw Bay Indian Community Sex Offender Website, which the Tribal Police shall maintain and operate pursuant to the provisions of this code, as amended.
- C. The registry and the website shall be known interchangeably as the Keweenaw Bay Indian Community Sex Offender Registry or KBIC SOR.

§3.2002 Definitions.

The Definitions below apply to the Sex Offender Registration Code.

A. Convicted.

- 1. An adult sex offender is “convicted” for the purposes of this code if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.
- 2. A juvenile offender is “convicted” for purposes of this code if the juvenile offender is either:
 - a. Prosecuted and found guilty as an adult for a sex offense; or
 - b. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (18 USC 2241(a) or (b)), or was an attempt or conspiracy to commit such an offense.

B. Foreign Convictions. A foreign conviction is one obtained outside of the United States.

C. Employee. The term “employee” as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.

- D. Immediate. “Immediate” and “immediately” mean within 3 business days.
- E. Imprisonment. The term “imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state “prison” as well as in a federal, military, foreign, Bureau of Indian Affairs (“BIA”), private or contract facility, or a local or tribal “jail”. Persons under “house arrest” following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of “house arrest”.
- F. Jurisdiction. The term “jurisdiction” as used in this code refers to the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe.
- G. Minor. The term “minor” means a person under eighteen (18) years of age as that term is defined in § 4.106(f) of the Tribal Code.
- H. Resides. The term “reside” or “resides” means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.
- I. Sex Offense. The term “sex offense” as used in this code includes those offenses contained in 42 U.S.C. §16911(5) and its current amendments, and those offenses enumerated under this code, the Criminal Sexual Conduct Code, or any other covered offense under tribal law. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Code/Ordinance if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than four (4) years older than the victim.
- J. Sex Offender. A person convicted of a sex offense is a “sex offender”.
- K. Sexual Act. The term “sexual act” means:
1. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
 2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;
 4. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
 5. sexual penetration as defined at §3.1901(A)(12) of the Tribal Code.
- L. Sexual Contact. The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person including the definition at §3.1901(A)(9).
- M. Student. A “student” is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.
- N. SORNA. The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 et. seq., as amended.
- O. Sex Offender Registry. The term “sex offender registry” means a registry of sex offenders, and a notification program, maintained by a governmental authority responsible for tracking sex offenders. As used throughout the Tribal Code, Sex Offender Registry refers to the Keweenaw Bay Indian Community Sex Offender Registry and or Website created pursuant to §3.2001 of the Tribal Code.
- P. National Sex Offender Registry (NSOR). The national database maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16919, as amended.
- Q. SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.
- R. Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.

- S. “Tier 1 Sex Offender”. A “tier 1 sex offender”, or a “sex offender” designated as “tier 1”, is one that has been convicted of a “tier 1” sex offense as defined in §3.2005.
- T. “Tier 2 Sex Offender”. A “tier 2 sex offender”, or a “sex offender” designated as “tier 2”, is one that has been either convicted of a “tier 2” sex offense as defined in §3.2006, or who is subject to the recidivist provisions of §3.2006(A).
- U. “Tier 3 Sex Offender”. A “tier 3 sex offender”, or a “sex offender” designated as “tier 3”, is one that has been either convicted of a “tier 3” sex offense as defined in §3.2007, or who is subject to the recidivist provisions of §3.2007(A).

§3.2003 Covered Persons and Offenses.

Individuals who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the tribe in fee or trust regardless of location, are employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, that have been convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this code:

A. Tribal offenses.

1. Criminal Sexual Conduct in the First and Second Degrees, §3.1902 of the Tribal Code.
2. Assault with intent to commit Criminal Sexual Conduct in the First Degree, §3.1903 of the Tribal Code.
3. Assault with intent to commit Criminal Sexual Conduct in the Second Degree, §3.1904 of the Tribal Code.
4. Sexual Exploitation of Minors, §3.1905 of the Tribal Code.

B. Federal Offenses. A conviction for any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. §16911(5):

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §1801 (video voyeurism of a minor),
3. 18 U.S.C. §2241 (aggravated sexual abuse),
4. 18 U.S.C. §2242 (sexual abuse),
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),

6. 18 U.S.C. §2244 (abusive sexual contact),
 7. 18 U.S.C. §2245 (offenses resulting in death),
 8. 18 U.S.C. §2251 (sexual exploitation of children),
 9. 18 U.S.C. §2251A (selling or buying of children),
 10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
 11. 18 U.S.C. §2252A (material containing child pornography),
 12. 18 U.S.C. §2252B (misleading domain names on the internet),
 13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
 14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
 15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
 16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),
 17. 18 U.S.C. §2423 (Mann Act), (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places)
 18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
 19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- D. Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).
- E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241(a) or (b)) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by

rendering the victim unconscious or involuntarily drugging the victim. This includes juveniles convicted as adults and juveniles at least fourteen (14) years of age adjudicated delinquent.

F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction (as defined in §3.2002(F)), by a person who has been convicted of a criminal offense in any state, tribe that has elected to be a registration jurisdiction, United States territory, or the District of Columbia, and any foreign country (subject to the limitations described above) and this tribe that involves:

1. Any type or degree of genital, oral, or anal penetration,
2. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
3. Kidnapping of a minor,(not by a parent)
4. False imprisonment of a minor, (not by a parent)
5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
6. Use of a minor in a sexual performance,
7. Solicitation of a minor to practice prostitution,
8. Possession, production, or distribution of child pornography,
9. Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
10. Any conduct that by its nature is a sex offense against a minor, or
11. Any offense similar to those outlined in:
 - a. 18 U.S.C. §1591 (sex trafficking of children, or by force, fraud, or coercion),
 - b. 18 U.S.C. §1801 (video voyeurism of a minor),
 - c. 18 U.S.C. §2241 (aggravated sexual abuse),
 - d. 18 U.S.C. §2242 (sexual abuse),
 - e. 18 U.S.C. §2244 (abusive sexual contact),
 - f. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution), or

g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

G. “Sex Offense”

1. Except as limited by subparagraph 4, the term “sex offense” means: A criminal offense that has an element involving a sexual act or sexual contact with another;
2. A criminal offense that is a “specified offense against a minor”. The term “specified offense against a minor” means an offense against a minor that involves any of the following:
 - a. An offense (unless committed by a parent or guardian) involving kidnapping.
 - b. An offense (unless committed by a parent or guardian) involving false imprisonment.
 - c. Solicitation to engage in sexual conduct.
 - d. Use of a minor in a sexual performance.
 - e. Solicitation to practice prostitution.
 - f. Video voyeurism as described in 18 U.S.C. §1801.
 - g. Possession, production, or distribution of child pornography.
 - h. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
 - i. Any conduct that by its nature is a sex offense against a minor;
3. An attempt or conspiracy to commit an offense described in subsections (1) and (2).
4. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Ordinance if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim. The age of consent for sex is sixteen (16).

§3.2004 Tiered Offenses.

Sex offenses are classified as Tier 1, Tier 2 or Tier 3 offenses with Tier 1 offenses being the least serious and Tier 3 offenses being the most serious with the most restrictive registration requirements.

§3.2005 Tier 1 Offenses.

- A. Sex Offenses. A “Tier 1” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that is not a “Tier 2” or “Tier 3” offense.
- B. Offenses Involving Minors. A “Tier 1” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to §3.2003 that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- C. Tribal Offenses. Any offense that requires registration as a sex offender but does not specify the registration period under this code or any other section of the Tribal Code shall be a “Tier 1” offense for registration purposes. The following tribal offenses require registration under Tier 1:
 - 1. the first conviction for Criminal Sexual Conduct in the First Degree (§3.1902(D)(1)(a)),
 - 2. the first conviction for Criminal Sexual Conduct in the Second Degree (§3.1902(D)(2)),
 - 3. the first conviction for Assault with intent to commit Criminal Sexual Conduct in the First Degree (§3.1903(B)(1))
 - 4. the first conviction for Assault with intent to commit Criminal Sexual Conduct in the Second Degree (§3.1904(B)(1))
- D. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 1” offense:
 - 1. 18 U.S.C. §1801 (video voyeurism of a minor),
 - 2. 18 U.S.C. §2252 (receipt or possession of child pornography),
 - 3. 18 U.S.C. §2252A (receipt or possession of child pornography),
 - 4. 18 U.S.C. §2252B (misleading domain names on the internet),
 - 5. 18 U.S.C. §2252C (misleading words or digital images on the internet),
 - 6. 18 U.S.C. §2422(a) (coercion to engage in prostitution),
 - 7. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
 - 8. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
 - 9. 18 U.S.C. §2423(d) (ancillary offenses, as pertains to adults),
 - 10. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or

11. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

E. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in §3.2005(A) through (D) shall be considered a “Tier 1” offense.

§3.2006 Tier 2 Offenses.

A. Recidivism and Felonies. Unless otherwise covered by §3.2007, any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail is considered a “Tier 2” offense.

B. Exceptions. The following Tribal Offenses shall be considered Tier 2 offenses for registration purposes:

1. A second conviction for Criminal Sexual Conduct in the first degree (§3.1902(D)(1)(b)).
2. A second or subsequent conviction for Criminal Sexual Conduct in the second degree (§3.1902(D)(2)(a)).
3. A second or subsequent conviction for Assault with intent to commit criminal sexual conduct in the second degree (§3.1904(B)(2)).

C. Offenses Involving Minors. A “Tier 2” offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense that involves:

1. The use of minors in prostitution, including solicitations,
2. Enticing a minor to engage in criminal sexual activity,
3. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,
4. The use of a minor in a sexual performance, or
5. The production or distribution of child pornography.

D. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 2” offense:

1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
2. 18 U.S.C. §2243 (sexual abuse of a minor or ward),

3. 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),
 4. 18 U.S.C. §2251 (sexual exploitation of children),
 5. 18 U.S.C. §2251A (selling or buying of children),
 6. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
 7. 18 U.S.C. §2252A (production or distribution of material containing child pornography),
 8. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
 9. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
 10. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
 11. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct),
 12. 18 U.S.C. §2423(d) (as it pertains to minors).
- E. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in § 3.2006 shall be considered a “Tier 2” offense.

§3.2007 Tier 3 Offenses.

- A Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the sex offender has at least one prior conviction for a Tier 2 sex offense, or the sex offender has previously become a Tier 2 sex offender, is a “Tier 3” offense.
- B Exceptions. The following Tribal Offenses shall be considered Tier 3 offenses for registration purposes:
1. Any third or subsequent conviction for Criminal Sexual Conduct in the first degree (§3.1902(D)(1)(c)).
 2. Any second or subsequent conviction for Assault with intent to commit Criminal Sexual Conduct in the First Degree (§3.1903(B)(2)).
 3. Any conviction for Sexual Exploitation of Minors (§3.1905).
- C General Offenses. A “Tier 3” offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:
1. Non-parental kidnapping of a minor,
 2. A sexual act with another by force or threat,

3. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
4. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.

D. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a “Tier 3” offense:

1. 18 U.S.C. §2241 (aggravated sexual abuse),
2. 18 U.S.C. §2242 (sexual abuse), or
3. Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).

E. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in §3.2007 shall be considered a “Tier 3” offense.

§3.2008 Required Information.

Convicted sex offenders required to register under the provisions of this Chapter must provide the following information to Tribal Police pursuant to their registration requirements: criminal history, date of birth, DNA sample, driver’s licenses, identification cards, passports, immigration documents, employment information, finger and palm prints, internet identifiers, name, phone number, pictures of their person including any identifying marks, physical description, professional licensing information, residence address, school information, social security number, temporary lodging information, and vehicle information. The sex offender’s failure to timely provide the above information, or providing false or inaccurate information, is a violation of the sex offender’s requirements under this code and is punishable pursuant to the criminal or civil sanctions in §3.2039 of this code. In addition, the sex offender’s failure to timely provide the required information may violate his or her registration requirements in other jurisdictions and may subject the sex offender to penalties in those other jurisdictions as well.

§3.2009 General Requirements.

- A. Duties. A sex offender covered by this code who is required to register with the tribe pursuant to §3.2003 shall provide all of the information detailed in this Chapter to the Tribal Police, and the Tribal Police shall obtain all of the information detailed in this chapter from the covered sex offender who is required to register with the tribe in accordance with this code and shall implement any relevant policies and procedures in furtherance of these duties.
- B. Digitization. All information obtained under this code shall be, at a minimum, maintained by the Tribal Police in a digitized format.
- C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Tribal Police and shall be in a form capable of electronic transmission. This requirement can be fulfilled by the creation and maintenance of the sex offender website.

§3.2010 Criminal History.

Criminal History. The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:

1. The date of all arrests,
2. The date of all convictions,
3. The sex offender's status of parole, probation, or supervised release,
4. The sex offender's registration status, and
5. Any outstanding arrest warrants.

§3.2011 Date of Birth.

Date of Birth. The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

1. The sex offender's actual date of birth, and
2. Any other date of birth used by the sex offender.

§3.2012 DNA Sample

- A. DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Tribal Police or designee a sample of his/her DNA.

- B. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile into CODIS.

§3.2013 Driver's Licenses, Identification Cards, Passports, Immigration Documents.

- A. Driver's License. The Tribal Police or designee shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.
- B. Identification Cards. The Tribal Police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
- C. Passports. The Tribal Police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by or issued to the sex offender.
- D. Immigration Documents. The Tribal Police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

§3.2014 Employment Information.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

1. The name of the sex offender's employer,
2. The address of the sex offender's employer, and
3. Similar information related to any transient or day labor employment.

§3.2015 Finger and Palm Prints.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender. Tribal Police shall submit finger and palm prints obtained from a covered sex offender to the FBI for inclusion into the International Automated Fingerprint Identification System ("IAFIS").

§3.2016 Internet Identifiers.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:

1. Any and all email addresses used by the sex offender,
2. Any and all Instant Message addresses and identifiers,
3. Any and all social network pages, screen names or other identifiers,
4. Any and all other designations or monikers used for self-identification in internet communications or postings, and
5. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

§3.2017 Name.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

1. The sex offender's full primary given name,
2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

§3.2018 Phone Numbers.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:

1. Any and all land line telephone numbers in the sex offender's name or regularly used by the sex offender, and
2. Any and all cellular telephone numbers including pagers and any handheld devices in the sex offender's name or regularly used by the sex offender.
3. Any and all voice over IP addresses or identifiers.

§3.2019 Picture.

- A. Photograph. The Tribal Police or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.
- B. Update Requirements. Unless the appearance of a sex offender has significantly changed (requiring more frequent updating of the sex offender's picture), a digitized photograph shall be collected:
 - 1. Every 90 days for Tier 3 sex offenders,
 - 2. Every 180 days for Tier 2 sex offenders, and
 - 3. Every year for Tier 1 sex offenders.

§3.2020 Physical Description.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

- 1. A physical description,
- 2. A general description of the sex offender's physical appearance or characteristics, and
- 3. A description of any identifying marks, such as, but not limited to, scars, moles, birthmarks, piercings or tattoos which includes their location. Tribal Police shall obtain photos of these identifying marks.

§3.2021 Professional Licensing Information.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

§3.2022 Residence Address.

- A. Address. The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:
 - 1. The address of each residence at which the sex offender resides or will reside, and
 - 2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

- B. Residency Restrictions. Except as otherwise provided in this section an individual required to register as a sex offender shall not reside within 1,000 feet of a school including colleges, daycare and preschool facilities.
1. Penalties. An individual who violates subsection (B) is guilty of a crime and subject to the criminal and civil penalties outlined in §3.2039 of the Sex Offender Registration Code.
 2. This section does not apply to any of the following:
 - a. An individual who is 19 years of age or under and attends secondary school or postsecondary school, and resides with his or her parent or guardian. This exception does not apply to an individual who initiates or maintains contact with a minor within the 1,000 feet of a school. However, the individual may initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.
 - b. An individual who is 26 years of age or under and attends a special education program, and resides with his or her parent or guardian or resides in a group home or assisted living facility. An individual described in this subsection shall not initiate or maintain contact with a minor within 1,000 feet of a school. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.
 - c. An individual who is a patient in a hospital or hospice that is located within 1,000 feet of a school. This exception does not apply to an individual who initiates or maintains contact with a minor within 1,000 feet of a school.
 - d. An individual who resides within 1,000 feet of a school because the individual is an inmate or resident of a prison, jail, juvenile facility, or other correctional facility or is a patient of a mental health facility under an order of commitment. This exception does not apply to an individual who initiates or maintains contact with a minor within 1,000 feet of a school.
 3. An individual who resides within 1,000 feet of a school and who is subsequently required to register as a sex offender pursuant to the Tribal Code or any other federal or state law, shall change his or her residence to a location outside the 1,000 foot residency restriction within 90 days after he or she is sentenced for the conviction that gives rise to the

obligation to register as a sex offender. A person who violates this subsection by not relocating within the 90-day period is guilty of a crime and subject to the criminal and civil penalties described in §3.2039 of the Sex Offender Registration Code.

4. This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

§3.2023 School.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

1. The address of each school where the sex offender is or will be a student, and
2. The name of each school where the sex offender is or will be a student.

§3.2024 Social Security Number.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information:

1. A valid social security number for the sex offender, and
2. Any social security number the sex offender has used in the past, valid or otherwise.

§3.2025 Temporary Lodging and Travel.

A. Domestic Travel.

1. When a covered sex offender will be absent from his residence for seven (7) days or more, the sex offender shall provide in person to the Tribal Police or its designee, at least seven (7) days in advance, the following information:
 - a. Identifying information of the temporary lodging locations including addresses and names, and the dates the sex offender will be staying at each temporary lodging location.
 - b. Any other travel information requested by the Tribal Police.
2. Upon obtaining this information from a covered sex offender the Tribal Police shall:
 - a. Notify the identified jurisdictions where the sex offender plans to travel of the dates and locations where the sex offender plans to stay.

- b. Notify the other jurisdictions where the sex offender is required to register of the information regarding the sex offender's planned travel.
- c. Immediately update this information with NCIC/NSOR and on the KBIC Sex Offender website.

B. International Travel.

1. In the event a covered sex offender will be traveling outside of the United States for any length of time, the sex offender shall provide in person to the Tribal Police or its designee, at least twenty-one (21) days in advance, the following information:
 - a. Identifying information of the temporary lodging locations including addresses and names, and the dates the sex offender will be staying at each temporary lodging location.
 - b. Any other travel information requested by the Tribal Police.
2. Upon obtaining this information from a covered sex offender the Tribal Police shall:
 - a. Immediately notify the U.S. Marshalls Service and any other jurisdiction where the sex offender is either registered, or is required to register, of the updated information.
 - b. Immediately update this information with NCIC/NSOR and on the KBIC Sex Offender website.

§3.2026 Offense Information.

The Tribal Police or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

§3.2027 Vehicle Information.

The Tribal Police or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

1. License plate numbers,
2. Registration numbers or identifiers,
3. General description of the vehicle to include color, make, model, and year, and
4. Any permanent or frequent location where the vehicle is kept.

§3.2028 Frequency, Duration, and Reduction of Registration

A. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Tribal Police for purposes of verification and keeping their registration current in accordance with the following time frames:

1. For “Tier 1” offenders, once a year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
2. For “Tier 2” offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
3. For “Tier 3” offenders, once every 90 days for the rest of their lives from the date of sentencing. For incarcerated offenders, the Tribal Police shall contact the correctional facility where he or she is housed and verify the offender’s information and location.

B. Reduction of Registration Periods. A sex offender may have his or her period of registration reduced as follows:

1. A Tier 1 offender may have his or her period of registration reduced to 10 years if he or she has maintained a clean record for 10 consecutive years;
2. A Tier 3 offender may have his or her period of registration reduced to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 25 consecutive years.

C. Clean Record. For purposes of §3.2028(B) a person has a clean record if:

1. He or she has not been convicted of any offense, for which imprisonment for 6 months or more may be imposed,
2. He or she has not been convicted of any other sex offenses,
3. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole, and
4. He or she has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

§3.2029 Requirements for In Person Appearances.

- A. Photographs. At each in person verification, the sex offender shall permit the Tribal Police to take a photograph of the offender.
- B. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.
- C. Notification. If any new information or change in information is obtained at an in person verification, the Tribal Police shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

§3.2030 Where Registration is Required.

- D. Jurisdiction of Conviction. A sex offender must initially register with the Tribal Police if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
- E. Jurisdiction of Incarceration. A sex offender must register with the Tribal Police if the sex offender is incarcerated by the tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
- F. Jurisdiction of Residence. A sex offender must register with the Tribal Police if the sex offender resides within the territorial jurisdiction of the Tribal Court.
- G. Jurisdiction of Employment. A sex offender must register with the Tribal Police if he or she is employed by the tribe in any capacity or otherwise is employed within the territorial jurisdiction of the Tribal Court.
- H. Jurisdiction of School Attendance. A sex offender must register with the Tribal Police if the sex offender is a student in any capacity within the territorial jurisdiction of the Tribal Court.

§3.2031 Timing of Registration.

- A. Timing. A sex offender required to register with the tribe under this code shall do so within the following timeframes:
 - 1. If convicted by the Tribal Court for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
 - 2. If convicted by the Tribal Court but not incarcerated, within 3 business days of sentencing for the registration offense; or

3. Within 3 business days of establishing a residence, commencing employment, or becoming a student on lands within the territorial jurisdiction of the Tribal Court, a sex offender must appear in person to register with the Tribal Police.
 4. Failure to register as a convicted sex offender with the Tribal Police within the required time period is a violation of the sex offender's obligations under this Chapter and shall be punished pursuant to the criminal and civil sanctions at §3.2039.
- B. Duties of the Tribal Police. The Tribal Police shall have policies and procedures in place to ensure the following:
1. That any sex offender incarcerated or sentenced by the tribe for a covered sex offense completes their initial registration with the tribe,
 2. That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,
 3. That the sex offender is registered, and
 4. That upon entry of the sex offender's information into the registry and website, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status by direct entry into NCIC or reporting to an agency with NCIC access.

§3.2032 Retroactive Registration.

- A. Retroactive Registration. The Tribal Police shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:
1. Sex offenders incarcerated or under the supervision of the tribe, whether for a covered sex offense or other crime,
 2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the tribe's laws, and
 3. Sex offenders reentering the justice system due to conviction for any crime.
- B. Timing of Recapture. The Tribal Police shall ensure recapture of the sex offenders mentioned in §3.2032(A) within the following timeframe to be calculated from the date of passage of this code:

1. For Tier 1 sex offenders, 1 year,
2. For Tier 2 sex offenders, 180 days, and
3. For Tier 3 sex offenders, 90 days.

§3.2033 Keeping Registration Current.

A. Jurisdiction of Residency.

1. Sex offender's duties. All sex offenders required to register due to their residency in this jurisdiction shall immediately appear in person at the Tribal Police Department to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform the Tribal Police in person of any changes to their permanent or temporary lodging information, vehicle information, internet identifiers, or telephone numbers. In the event of a change in residency or temporary lodging to a location outside this jurisdiction, the sex offender shall immediately notify the jurisdiction in which the sex offender will be relocating to or temporarily staying and any other jurisdiction where the sex offender is required to register.
2. Tribal Police duties. When notified of a change in a registered sex offenders residency, the Tribal Police shall immediately notify the jurisdiction in which the sex offender will be relocating to or temporarily staying and any other jurisdiction where the sex offender is required to register.

B. Jurisdiction of School Attendance.

1. Sex Offender duties. Any sex offender who is a student in any capacity within the territorial jurisdiction of the Tribal Court regardless of location that changes their school, or otherwise terminates their schooling, shall immediately appear in person at the Tribal Police Department to update that information.
2. Tribal Police duties. The Tribal Police shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

C. Jurisdiction of Employment.

1. Sex Offender duties. Any sex offender, who is employed by the tribe in any capacity or otherwise is employed within the territorial jurisdiction of the Tribal Court regardless of

location, that changes their employment, or otherwise terminates their employment, shall immediately appear in person at the Tribal Police Department to update that information.

2. Tribal Police duties. The Tribal Police shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

D. Failure to comply with the provisions of this section by the sex offender is a violation of the sex offender's obligations under the Sex Offender Registration Chapter and is punishable pursuant to the criminal and civil sanctions at §3.2039.

E. Duties of the Tribal Police. With regard to changes in a sex offender's registration information, the Tribal Police or designee shall immediately notify:

1. All jurisdictions where a sex offender intends to reside, work, or attend school,
2. Any jurisdiction where the sex offender is either registered or required to register, and
3. The Tribal Police shall notify the U.S. Marshalls Service and immediately notify any other jurisdiction where the sex offender is either registered or is required to register when the sex offender notifies Tribal Police of his or her intent to travel outside the United States. Tribal Police shall report this information to NCIC, NSOR and the KBIC website.

§3.2034 Failure to Appear For Registration and Absconding.

A. Failure to Appear. In the event a sex offender fails to register with the tribe as required by this code, the Tribal Police or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the tribe that the sex offender failed to appear for registration. If the sex offender's obligation to register was from a conviction in Tribal Court, the Tribal Police shall seek charges from the Tribal Prosecutor pursuant to §3.2039.

B. Absconded Sex Offenders. If the Tribal Police or designee receives information that a sex offender has absconded, the Tribal Police shall make an effort to determine if the sex offender has actually absconded.

1. In the event no determination can be made, the Tribal Police or designee shall ensure the tribal police and any other appropriate law enforcement agency is notified.

2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
 3. If an absconded sex offender cannot be located then the tribal police shall take the following steps:
 - a. Update the registry and website to reflect the sex offender has absconded or is otherwise not capable of being located,
 - b. Notify the U.S. Marshals Service,
 - c. Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
 - d. Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
 - e. Update NCIC that the sex offender is an absconder.
- C. Failure to Register. In the event a sex offender who is required to register due to their employment, school attendance, residency status, or any other qualification that would require registration, fails to do so or otherwise violates a registration requirement of this code, the Tribal Police shall take all appropriate follow-up measures including those outlined in §3.2034(B). The Tribal Police shall first make an effort to determine if the sex offender is actually employed or attending school on lands subject to the tribe's jurisdiction. If the Tribal Police determine that a sex offender has failed to register under the requirements of this code, they shall seek a warrant from the Tribal Prosecutor pursuant to §3.2039 of the Tribal Code.

§3.2035 Public Sex Offender Registry Website.

- A. Website. The Tribal Police shall use and maintain a public sex offender registry website which shall be immediately updated upon an initial registration or change in information.
- B. Links. The registry website shall include links to sex offender safety and education resources.
- C. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

- D. Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
- E. Search Capabilities. The registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code and/or geographic radius.
- F. Dru Sjodin National Sex Offender Public Website. The tribe shall include in the design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

§3.2036 Required and Prohibited Information.

- A. Required Information. The following information shall be made available to the public on the sex offender registry website:
 - 1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 - 2. All sex offenses for which the sex offender has been convicted,
 - 3. The sex offense(s) for which the offender is currently registered,
 - 4. The address of the sex offender's employer(s),
 - 5. The name of the sex offender including all aliases,
 - 6. A current photograph of the sex offender,
 - 7. A physical description of the sex offender,
 - 8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
 - 9. All addresses of schools attended by the sex offender, and
 - 10. The sex offender's vehicle license plate number along with a description of the vehicle.
- B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
 - 1. Any arrest that did not result in conviction,
 - 2. The sex offender's social security number,
 - 3. Any travel and immigration documents,

4. The identity of the victim, and
 5. Internet identifiers (as defined in 42 U.S.C. §16911).
- C. Witness Protection. For sex offenders who are under a witness protection program, the tribal police may honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

§3.2037 Community Notification.

- A. Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the tribe, the Tribal Police shall:
1. Immediately update the KBIC registry, the KBIC website, NCIC, and NSOR,
 2. Immediately notify any agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, social services and tribal probation.
 3. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.
 4. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.
- B. Community Notification. The Tribal Police shall ensure there is an automated community notification process in place that ensures the following:
1. Upon a sex offender's registration or update of information with the tribe, the tribe's public sex offender registry website is immediately updated,
 2. The tribe's public sex offender registry has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

§3.2038 Immunity.

- A. No waiver of immunity. Nothing under the Sex Offender Registration Code shall be construed as a waiver of sovereign immunity for the Keweenaw Bay Indian Community, its departments, agencies, employees, or agents.
- B Any person acting under good faith of this Chapter shall be immune from any civil liability arising out of such actions.

§3.2039 Crimes and Civil Sanctions.

- A. Criminal penalty. Each violation of a provision of this code by a sex offender who is a member of a federally recognized Indian tribe shall be considered a class A misdemeanor and punishable by a period of incarceration of up to one year and or a fine up to \$5,000 or both. The penalties for a violation by a convicted sex offender of any of the provisions of the Sex Offender Registration Code may include the traditional punishment of banishment for any period of time including lifetime banishment. In addition or alternatively the Tribal Police and Tribal Prosecutor may work with state and federal law enforcement officials to pursue penalties pursuant to state and or federal law applicable to the non-compliant sex offender.
- B. Civil Penalty. Each violation of a provision of this code by a sex offender who is not a member of a federally recognized Indian tribe shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines (up to \$5,000 for each violation), civil contempt, traditional banishment, and forfeiture of any and all personal and real property located within the territorial jurisdiction of the Tribal Court. In addition or alternatively the Tribal Police and Tribal Prosecutor may work with state and federal law enforcement officials to pursue penalties pursuant to state and or federal law applicable to the non-compliant sex offender.
- C. Hindrance of sex offender registration
 - 1. A person is guilty of this offense if he or she:
 - a. Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of the Sex Offender Registration Code or any other sex offender registration law;

- b. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of the Sex Offender Registration Code or any other sex offender registration law; or
 - c. Provides information to a law enforcement agency regarding a sex offender which the person knows to be false.
2. A person who violates this section is subject to criminal or civil penalties as those penalties are delineated in subsections A and B above.

§3.2040 Miscellaneous.

- A. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this ordinance will not be affected thereby.
- B. Effective Date. This ordinance shall take effect immediately upon the date of its adoption.

Legislative History: Ordinance 2011 – 01 was adopted on April 21, 2011.

Ordinance 2012 – 03 was adopted on May 10, 2012 (§3.2025 was amended and incorporated into Tribal Code Chapter 3.20).